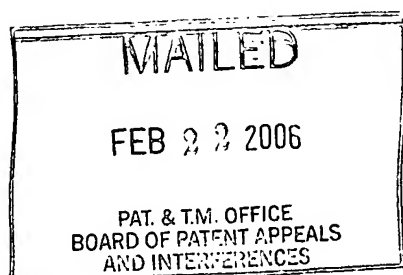




## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Sally Gardner Lane  
Telephone: (571) 272-9797  
Facsimile: (571) 273-0042



Applicants: Maliga et al.  
Application No.: 10/088,634  
Filed: 10/16/02  
For: Site-Specific Recombination system  
to manipulate the plastid genome of  
higher plants

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,420.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

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Sally Gardner Lane  
Administrative Patent Judge

Mail Stop Interference  
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Alexandria Va 22313-1450  
Tel: 571-272-9797  
Fax: 571-273-0042

Filed  
22 February 2006

UNITED STATES PATENT AND TRADEMARK OFFICE  
\_\_\_\_\_  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

JEFFREY M. STAUB,  
PETER H.J. HAJDUKIEWICZ, and LARRY GILBERTSON,  
Junior Party  
(Patent 6,849,778),

v.

PAL MALIGA  
and SYLVIE CORNEILLE  
Senior Party  
(Application 10/088,634).

Patent Interference No. 105,420  
(Technology Center 1600)  
\_\_\_\_\_

MAILED

FEB 22 2006

PATENT OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

**DECLARATION - Bd.R. 203(d)<sup>1</sup>**

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Administrative Patent Judge Sally Gardner Lane has been designated to  
2 manage the interference. Bd. R. 104(a).

3 **Part C. Standing order**

4 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
5 DECLARATION. The STANDING ORDER applies to this interference.

6 **Part D. Initial conference call**

7 A telephone conference call to discuss the interference is set for **2:00 pm on**  
8 **4 April 2006** (the Board will initiate the call).

9 No later than **four business days** prior to the conference call, each party shall  
10 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
11 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

12 A sample schedule for taking action during the motion phase appears as Form 2  
13 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
14 the conference call and to agree on dates for taking action. A typical motion period  
15 lasts approximately eight (8) months. Counsel should be prepared to justify any  
16 request for a shorter or longer period.

**Part E. Identification and order of the parties**

Junior Party

Named inventors: Jeffrey M. Staub  
Chesterfield, MO

Peter H. J. Hajdukiewicz  
Chesterfield, MO

Larry Gilbertson  
Chesterfield, MO

Involved Patent: 6,849,778, issued on 1 February 2005  
from application 09/688,851, filed 16 October 2000

Title: METHODS AND VECTORS FOR SITE-SPECIFIC  
RECOMBINATION IN PLANT CELL PLASTIDS

Assignee: CALGENE, LLC and MONSANTO COMPANY

Senior Party

Named Inventors: Pal Maliga  
East Brunswick, NJ

Sylvie Corneille  
Highland Park, NJ

Involved Application: 10/088,634, filed 16 October 2002

Title: SITE-SPECIFIC RECOMBINATION SYSTEM TO  
MANIPULATE THE PLASTID GENOME OF HIGHER  
PLANTS

Assignee: RUTGERS, THE STATE UNIVERSITY OF NEW  
JERSEY

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

**Part F. Count and claims of the parties**

Count 1

Claim 1 of Maliga

or

Claim 2 of Staub.

The claims of the parties are:

Maliga: 1-21

Staub: 1-4

The claims of the parties which correspond to Count 1 are:

Maliga: 1-21

Staub: 1-4

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Maliga: None

Staub: None

The parties are accorded the following benefit for Count 1:

Maliga:

PCT/US00/25930, filed 21 September 2000

US 60/211,139, filed 13 June 2000

US 60/155,007, filed 21 September 1999

Staub:

US 60/225,542, filed 16 August 2000

US 60/159,876, filed 15 October 1999

1  
2 **Part G. Heading to be used on papers**

3 The following heading must be used on all papers filed in this interference, see

4 SO ¶ 106.1.1:

5 UNITED STATES PATENT AND TRADEMARK OFFICE  
6

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8  
9 BEFORE THE BOARD OF PATENT APPEALS  
10 AND INTERFERENCES  
11

12  
13 JEFFREY M. STAUB,  
14 PETER H.J. HAJDUKIEWICZ, and LARRY GILBERTSON,  
15 Junior Party  
16 (Patent 6,849,778),  
17

18 v.  
19

20 PAL MALIGA  
21 and SYLVIE CORNEILLE  
22 Senior Party  
23 (Application 10/088,634).  
24

25 Patent Interference No. 105,420  
26  
27

28 **Part H. Order form for requesting file copies**

29 When requesting copies of files, use of SO Form 4 will greatly expedite  
30 processing of the request. Please attach a copy of Parts E and F of this  
31 DECLARATION with a hand-drawn circle around the patents and applications for which  
32 a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Form PTO-850  
Copy U.S. Patent 6,849,778  
Copy of claims of 10/088,634  
Copy of default times for taking action

Revised 3 January 2006

cc (via overnight delivery):

Attorney for Staub:

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St. Louis, MO 63167

Tel: 314-694-2547

Attorney for Malia:

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1601 Market Street  
Suite 2400  
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